

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

BRENDA JANEEN DALY,
individually,

Plaintiff,

v.

CAZIER ENTERPRISES, INC., a
regular corporation licensed
to conduct business in the
State of Washington, d/b/a
SUBWAY, RUSSELL LEE CAZIER
and JANE DOE CAZIER, husband
and wife, individually, and
the marital community
thereof, NOE VALENCIA and
JANE DOE VALENCIA, husband
and wife, individually and
the martial community
thereof,

Defendants.

NO. CV-05-5059-EFS

**ORDER DENYING PLAINTIFF'S
MOTION TO AMEND OR ALTER
JUDGMENT**

Before the Court, without oral argument, is Plaintiff's Motion to Amend or Alter Judgement (Ct. Rec. 77). Plaintiff asserts the Court misapprehended the facts, Ms. Daly's position, and the controlling law in its Order Granting Defendant's Motion for Summary Judgment (Ct. Rec. 75). As detailed below, the Court denies Plaintiff's motion.

1 Plaintiff's primary contention is that she must prove only that she
2 reasonably believed that the conduct she opposed constituted a violation
3 of the Washington Law Against Discrimination (WLAD) or Title VII. The
4 Court agrees with Plaintiff's interpretation that reasonable belief is
5 the standard she must meet. However, the Court reaffirms its finding
6 that *Clark County School District v. Breeden*, 532 U.S. 268 (2001),
7 controls with respect to whether the instant facts gives rise to a
8 situation that a reasonable person could believe violates the above
9 referenced laws. While Plaintiff attempts to distinguish her case from
10 *Breeden* by noting that under Defendants' sexual harassment policy
11 Plaintiff was mandated to make the report at issue, this additional fact
12 does not impact the analysis. In *Breeden*, the Supreme Court found that
13 an incident similar in scope to the incident at issue in the instant case
14 was an incident which no reasonable person could believe to be a
15 violation of Title VII's standards.

16 Plaintiff's complaint may well have been reasonable, warranted under
17 the circumstances, and even required by Defendants' sexual harassment
18 policy. The Court's ruling simply indicates that Plaintiff could not
19 have reasonably believed that her employer had violated WLAD or Title
20 VII. There are undoubtedly numerous instances of conduct in the
21 employment context which warrant complaint but do not rise to the level
22 of a violation of the law, or even an arguable violation of the law, such
23 as the instant case.

24 Accordingly, **IT IS HEREBY ORDERED:** Plaintiff's Motion to Amend or
25 Alter Judgment (**Ct. Rec. 77**) is **DENIED**.

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S/ Edward F. Shea

EDWARD F. SHEA
United States District Judge

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